**HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO**

**W.P. No.24127 of 1996**

**29.8.2007**

Between

Padigela Bhoomaiah ..Petitioner

AND

Mandal Revenue Officer, Vemulavada Revenue Mandal, Karimnagar district and others ..Respondents

**:: JUDGMENT ::**

**HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO**

**W.P. No.24127 of 1996**

The father of the writ petitioner – Sri Rajaiah appears to have been assigned land of an extent of Ac.7.10 guntas situate in Survey No.456/4 at Marpak Village, Vemulavada Mandal, Karimnagar District long years back. After his death, the petitioner herein and his brother appear to have succeeded to this. During the course of inspection, it has been realised by the revenue administration of the State that the assignee or his successors have violated the conditions of grant and transferred the title over the property by way of sale in favour of third parties. For this violation, action has been initiated for cancellation of the original grant and the land is attempted to be resumed, so that the same can be re-assigned in favour of any other eligible person.

The State Legislature with a view to prohibit transfer of certain lands, which are assigned to landless poor persons, enacted Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, "the Act"), Act No.9 of 1977. In Section 3, it has been provided that any land that has been assigned by the Government to a land less poor person for the purpose of cultivation or as house site, shall not be transferred in favour of any other person and even if such a transfer takes place, no right or title in such assigned land shall vest in such a person. Thus, a serious attempt has been made to preserve the possession of the assignee and to ensure that he will continue to cultivate or reside in the site in question depending upon its nature. The consequences of breach of this mandate contained

in Section 3 have been spelt out in Section 4 of the Act which enables the revenue administration to take possession of such assigned land after evicting the person in possession and securing the restoration of the possession in favour of the original assignee or his legal heir or where it is not reasonable or practicable to restore the land to such assignee or legal heir, the revenue administration will resume the assigned land to the Government for re-assigning the same to the landless poor persons in accordance with the rules. The procedure to accomplish this object has been spelt out in Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977, which prescribes the District Collector or the authorized officer taking action in terms of Section 4 to issue a notice in Form-I to the person who acquires any assigned land in contravention of the provisions of sub- section (2) of Section 3 of the Act. This will enable the purchaser as well as the original assignee to respond and put forth their respective pleas before the action contemplated under Section 4 is finalized.

It has been disclosed in the counter affidavit that two sets of notices in Form-I have been drawn, one on 10.9.1993 and another on 25.11.1993 and since there was no response, final orders were passed on 17.1.1994 by the Mandal Revenue Officer, Vemulavada Mandal canceling the original assignment of the lands in question. A perusal of the record produced by the Government Pleader would disclose that two separate notices in Form-I were drawn for two different extents of land situate in two different survey numbers which stood assigned to the predecessor-in-interest of the writ petitioner. Unfortunately, Form-I notice draws inspiration from the factual report filed by the Mandal Revenue Inspector setting out that the original assignee breached conditions of grant by undertaking transfer of the land in question in favour of third parties. If the allegation,

which formed the basis for cancellation, is an accurate statement of fact, either the writ petitioner or his brother or their predecessor-in-interest is liable to be treated to have contravened the conditions of grant and transferred the title over the property in question in favour of third parties. However, the notice in Form-I is required to be served on such transferee. The very allegation, which forms the basis for the action, presupposes that the writ petitioner or his predecessor-in-interest has already parted with the title and possession over the land in question. Therefore, the show cause notice in terms of Rule 3 of the aforementioned rules in Form-I is liable to be served on the identified transferee in interest. The Form-I notice itself has been drawn in the name of the writ petitioner and his brother recognizing them as the successors of the original assignee. Even this Form-I notice does not appear to have been served either on the writ petitioner or any other person. Without effecting the service of notice in Form-I, orders have been passed on 17.1.1994 by the Mandal Revenue Officer canceling the grant. It is clearly contrary to law, as set out supra. Therefore, the final orders passed on 17.1.1994 and the subsequent consequential action of resumption of the land and its re-assignment in favour of other eligible beneficiaries, are vitiated. I therefore, do not find any hesitation to set aside the orders passed on 17.1.1994 by the Mandal Revenue Officer canceling the original grant and it is accordingly, set aside.

The learned counsel for the writ petitioner had been served today with copies of the notices drawn in Form-I dated 10.9.1993 as well as dated 25.11.1993. The District revenue administration would also take steps to serve the same Form-I notice on those persons to whom the said original assignee or his successors have transferred the lands in question. If for any reason, the subsequent transferees either failed to receive the

notices or could not be so identified, the notice may be displayed at prominent places in the Village such as the Village Secretariat as well as on the notice board of the Mandal Revenue Office. One month thereafter, the enquiry be conducted and final orders in terms of Section 4 of the Act be passed. Till such time, the *status quo* existing shall be maintained. I hope and trust that the entire exercise will be accomplished and an appropriate report is filed to the Joint Collector, Karimnagar District within a period of four months in this regard.

With this, the writ petition is allowed. No costs.

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**NOOTY RAMA MOHANA RAO.J.**

29.8.2007psr